

REMARKS

Applicant has reviewed and considered the Restriction Requirement mailed on July 03, 2007. The Examiner has required restriction to one of the following alleged inventions under 35 USC 121:

- I. Claims 1-19 and 32-38, are drawn to generic wireless communication system employing a plurality of user devices in an SDMA network with specific predetermined selection criteria prior to transmission, classified in class 370, subclass 203.
- II. Claims 20-43, are drawn an access point wireless communications system capable of simultaneously servicing multiple users in an SDMA network within the coverage area of the access point, classified in class 370, subclass 310.2.
- III. Claims 44-46, are drawn to specific amount of data transmission in a wireless system, classified in class 370, subclass 235.

The Examiner takes the position that alleged inventions I, II, and III are related as combination and subcombination. However, the Examiner fails to clearly explain which alleged invention is being taken as the combination and which alleged inventions are being taken as the subcombinations. With regard to alleged inventions I and II, it is the Applicants' belief that the Examiner is taking the position that alleged invention II is the combination and alleged invention I is the subcombination. It is further believed that the Examiner is making the argument that the combination/subcombination has the form AB_{br}/B_{sp} (see MPEP 806.05(c)(II)) because the independent claims of alleged invention II do not include the limitation "based on a predetermined selection criterion." Independent claims 20 and 39 have been amended herein to include this limitation. Therefore, the requirement for restriction between alleged inventions I and II should be withdrawn.

It is noted that claims 32-38 are included in both alleged invention I and alleged invention II. It is assumed that the Examiner meant for these claims to be associated with alleged invention I.

Based on the foregoing, the requirement for restriction between alleged inventions I and II is traversed. The requirement for restriction of alleged invention III is not traversed. The Applicants respectfully request that alleged inventions I and II be examined together. A provisional election of alleged invention I is hereby made, which includes claims 1-19 and 32-38. Claims 44-46 (Group III) have been canceled herein without prejudice. The Applicants reserve the right to reintroduce these claims in a divisional application at a later date.

If the Examiner maintains the restriction requirement between alleged inventions I and II, it is respectfully requested that he clearly describe, in the next official communication, which alleged invention is being taken as the combination and which invention is being taken as the subcombination. In addition, it is also respectfully requested that he provide a description of the separate utility of the alleged subcombination (i.e., that the subcombination is either useful by itself or in another materially different combination). Further, MPEP 806.05(c) indicates that restriction between a combination and a subcombination requires that the Examiner provide reasons for insisting that restriction is necessary (i.e., there would be a serious search burden if restriction were not required.) Therefore, if the Examiner maintains the restriction requirement between alleged inventions I and II, it is respectfully requested that he provide such reasons in the next official communication.

RESPONSE TO RESTRICTION REQUIREMENT

Serial Number: 10/749,175

Filing Date December 30, 2003

Title: METHOD AND APPARATUS FOR IMPLEMENTING DOWNLINK SDMA IN A WIRELESS NETWORK

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Conclusion

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (480-948-3745) to facilitate prosecution of this application.

Respectfully submitted,

Adrian P. Stephens et al.

By their Representatives,

Customer Number: 45643

480-948-3745

Date

7/31/07

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 31 day of July, 2007.

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